THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	:
	: Examiner: M. Monshipouri
Brian ANDERTON et al.	:
	: Group Art Unit: 1656
Application No. 10/562,951	:
	: Attorney Docket No.: 0380-P03923US0
Filing Date: April 20, 2006	:
	: Confirmation No. 8723
For: SCREENING METHODS	:

Petition for Extension of Time Under 37 C.F.R. §1.136(a):

The undersigned hereby petitions for an extension of time of ONE (1) month beyond the time period set in the last Office Action. The Director is hereby authorized to charge the amount of $60.00 to cover this fee. Please charge any deficiency or credit any overpayment to Deposit Account No. 04-1406.

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Commissioner for Patents
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TRAVERSAL AND REQUEST FOR RECONSIDERATION OF REQUIREMENT FOR RESTRICTION

Dear Sir:

Applicants, through their undersigned attorneys, hereby traverse and request reconsideration of the requirement for restriction set forth in the Official Action, dated April 24, 2007, in the above-identified patent application.

At the outset, it is noted that an initial shortened statutory response period of one (1) month was set in the April 24, 2007 Official Action. The initial due date for response, therefore, was May 24, 2007. A petition for a one (1) month extension of the response period is presented with this Traversal and Request for Reconsideration of Requirement for Restriction, which is being filed before the expiration of the one (1) month extension period.

The examiner is requiring restriction based on the determination that the pending claims are directed to seven (7) allegedly separate, patentably distinct inventions, as set out at page 2 of the April 24, 2007 Official Action. This restriction requirement is plainly improper for failure to comply with the relevant provisions of the Manual of Patent Examining Procedure (MPEP) pertaining to the unity of invention determinations.

The present application was filed under 35 USC §371 as a U.S. national stage application under the Patent Cooperation Treaty (PCT).

As stated in 1893.03(d) of the MPEP:

> Examiners are reminded that unity of invention (not restriction) practice is applicable in international applications (both Chapter I and II) and in national stage applications submitted under 35 USC 371 . . .
>
> The principles of unity of invention are used to determine the types of claimed subject matter and the combinations of claims to different categories of invention that are permitted to be included in a single international or national stage patent application. The basic principle is that an application should relate to only one invention or, if there is more than one invention, that applicant would have a right to include in a single application only those inventions which are so linked as to form a single general inventive concept.
>
> A group of inventions is considered linked to form a single general inventive concept where there is a technical relationship among the inventions that involves at least one common or corresponding special technical feature. The expression special technical features is defined as meaning those technical features that define the contribution which each claimed invention, considered as a whole, makes over the prior art . . .

In the present case, virtually all of the claims in Groups I-III include the special technical feature of using the tau protein and casein kinase 1 (CK1) for screening substances capable of inhibiting CK1 phosphorylation of the tau protein at one or more phosphorylation sites thereof.

Indeed, the claims that the examiner has seen fit to separate into Groups II and III are dependent from claim 22 of Group I, and therefore, necessarily incorporate by reference the special technical feature recited in claim 22. The recitation of additional features in the claims of Groups II and III does not alter the fact that such claims share a common special technical feature with claim 22, and certainly does not warrant a finding that the respective claims of Groups I, II and III are patentably distinct.

The examiner's additional determination that SEQ ID Nos. 1, 2 and 3 are patentably distinct is not understood. Claim 22 recites in paragraph (a) ". . . contacting at least one candidate substance, the tau protein and casein kinase 1 . . .". This recitation makes clear that the tau protein and casein kinase 1 or fragments thereof are used together in carrying out the claimed method. Given that SEQ ID NO. 1 shows the amino acid sequence of rat casein kinase 1 and that SEQ ID NO. 2 shows the amino acid sequence of the long form of human tau protein, as described at page 16 of the present specification, there is absolutely no reasonable basis for holding these two sequences to be patentably distinct.

As for the alleged patentably distinct inventions among the Group II claims, as set forth at the top of page 3 of the April 24, 2007 Official Action, it is again pointed out that the inclusion of additional kinases or fragments thereof, in combination with CK1 or fragments thereof in performing the method of claim 22, does not alter the fact that the Group I and II claims have a common special technical feature which serves to distinguish them over the prior art, namely, the use of tau protein and CK1 for screening substances capable of inhibiting CK1 phosphorylation of the tau protein at one or more phosphorylation sites thereof.

Furthermore, it appears that a complete search of the Group I claims would of necessity encompass the same art areas that should be considered with respect to the methods of Groups II

and III. It is noteworthy in this regard that the examiner has failed to assert separate classification as warranting the present restriction requirement. Thus, the concurrent examination of claims 22-36 and 38-46 in the present application should not materially affect the examiner's workload.

The impropriety of this restriction requirement is underscored by the fact that there was no lack of unity objection during the international stage of this application. Rather, the subject matter of all of the claims (1-52) was treated as a single inventive concept, as can be seen in the copy of the International Search Report and Written Opinion which are of record in the official file. Accordingly, it should be evident that the present claims satisfy the unity of invention standards of the PCT.

Because the April 24, 2007 Official Action fails to comply with the established U.S. Patent and Trademark Office unity of invention guidelines, as demonstrated above, it is respectfully submitted that this restriction requirement be reconsidered and withdrawn, at least with respect to the subject matter of claims 22-36 and 38-46.

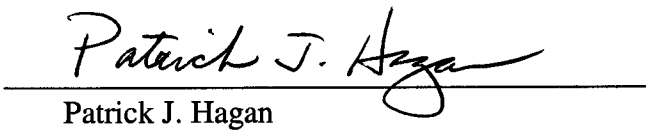
In order to be fully responsive to the above-mentioned restriction requirement, applicants hereby provisionally elect for examination in this application the subject matter of Group I, i.e., claims 22-32, 36 and 38-42, and SEQ ID NO: 1 (rat CK1).

Applicants' provisional election in response to the present restriction requirement is without prejudice to their right to file one or more continuing applications, as provided in 35 USC §121, on the subject matter of any claims finally held withdrawn from consideration in this application.

Early and favorable action on the merits of this application is respectfully requested.

Respectfully submitted,

DANN DORFMAN HERRELL and SKILLMAN, P.C.
Attorneys for Applicant

By 

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